

08 CV 6734

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Counsel for Plaintiffs

IN THE UNITED STATES DISTRICT COURT
 FOR THE SOUTHERN DISTRICT OF NEW YORK

-----X
 EYGN LIMITED and ERNST & YOUNG LLP, :

Plaintiffs, :

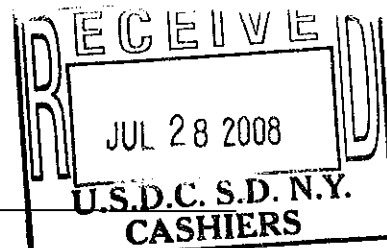
v. :

ENTREPRENEUR MEDIA, INC., :

Defendant. :
 -----X

Case No. _____

COMPLAINT



Plaintiffs EYGN Limited and Ernst & Young LLP, by their undersigned attorneys, Fross Zelnick Lehrman & Zissu, P.C., for their Complaint against Defendant Entrepreneur Media, Inc., allege as follows:

NATURE OF THE ACTION

1. For more than twenty years, Plaintiffs and their predecessors in interest have used the ENTREPRENEUR OF THE YEAR trademark in connection with an annual contest for the most successful and innovative business leaders in the United States and throughout the world. Plaintiffs' ENTREPRENEUR OF THE YEAR mark is registered with the United States Patent & Trademark Office and is incontestable under Section 15 of the Lanham Act, 15 U.S.C. § 1065.

2. In 2008, long after Plaintiffs registered the ENTREPRENEUR OF THE YEAR mark, and long after the ENTREPRENEUR OF THE YEAR mark achieved prominence in the

business world as signifying Plaintiffs' contest services, Defendant Entrepreneur Media, Inc. launched a similar contest under an identical mark without Plaintiffs' knowledge or authorization.

3. This is not the first time Defendant has infringed Plaintiffs' mark: in 1994, when Plaintiffs learned of Defendant's adoption of the ENTREPRENEUR OF THE YEAR mark in connection with a similar contest at that time, Plaintiffs objected in writing and Defendant stopped. This time, however, Defendant has rejected Plaintiffs' demand and is pressing forward with its infringing use of the mark.

4. Accordingly, to protect their substantial investment and the resultant goodwill they have established in the ENTREPRENEUR OF THE YEAR mark, Plaintiffs bring this action for trademark infringement and unfair competition under Sections 32(1) and 43(a) of the Lanham Act, and related claims under New York State law. Plaintiffs seek an injunction, an accounting of Defendant's profits flowing from its use of the ENTREPRENEUR OF THE YEAR mark, damages, attorneys' fees and such other relief as the Court deems just and proper.

THE PARTIES

5. Plaintiff EYGN Limited ("EYGN") is a company incorporated in the Bahamas with a registered office at One Montague Place, East Bay Street, Nassau, Bahamas. EYGN owns the ENTREPRENEUR OF THE YEAR mark and registration. (References to "Plaintiffs" are to EYGN and/or Ernst & Young LLP.)

6. Plaintiff Ernst & Young LLP ("Ernst & Young") is a limited liability partnership registered under the laws of the State of Delaware with its principal place of business at 5 Times Square, 37th Floor, New York, NY 10036. Ernst & Young is one of the largest professional

services organizations in the United States and uses the ENTREPRENEUR OF THE YEAR mark under license from EYGN.

7. Upon information and belief, Defendant Entrepreneur Media, Inc. ("EM") is a corporation organized and existing under the laws of the State of California, with an office and principal place of business at 2445 McCabe Way, Suite 400, Irvine, CA 92614.

JURISDICTION AND VENUE

8. This Court has jurisdiction over the subject matter of this action pursuant to Section 39 of the Trademark Act of 1946 (the "Lanham Act"), 15 U.S.C. § 1121, and under Sections 1331, 1338(a) and 1338(b) of the Judicial Code, 28 U.S.C. §§ 1331, 1338(a) and 1338(b). The Court has supplemental jurisdiction over the state law claims under Section 1367(a) of the Judicial Code, 28 U.S.C. § 1367(a).

9. Upon information and belief, EM regularly does and solicits business within the State of New York; has engaged in conduct in this judicial district, including the promotion, distribution and/or sale of magazines and/or other materials advertising its contest under the infringing ENTREPRENEUR OF THE YEAR mark, causing injury to Plaintiffs within this district and within the State; has derived and/or intends to derive substantial revenues from such conduct within this district and State; and has and should have reasonably expected such conduct to have consequences within this district and within the State, including, but not limited to, the harm suffered by Plaintiffs complained of herein. As such, EM is subject to personal jurisdiction in this Court.

10. Venue in this judicial district is proper pursuant to Sections 1391(b) and (c) of the Judicial Code, 28 U.S.C. § 1391(b) and (c), in that a substantial part of the events giving rise to Plaintiffs' claims, including, but not limited to, defendant's promotion, distribution and sale of

magazines and/or other promotional materials advertising its contest under the infringing ENTREPRENEUR OF THE YEAR mark in violation of Plaintiffs' exclusive rights, occurred in this district, and in that Defendant is subject to personal jurisdiction in New York State and is therefore deemed to reside in New York State.

FACTS COMMON TO ALL CLAIMS FOR RELIEF

A. Plaintiffs' ENTREPRENEUR OF THE YEAR Mark

11. For more than two decades, Ernst & Young has conducted an annual contest and awards program under the ENTREPRENEUR OF THE YEAR mark to commemorate the exceptional achievement of business leaders and to make the general public more aware of the benefits these leaders provide to the world economy.

12. Ernst & Young's ENTREPRENEUR OF THE YEAR award is highly sought-after and is the most prestigious business award of its kind.

13. Past ENTREPERNEUR OF THE YEAR award honorees have included some of the most influential business leaders in the world, including Michael Dell of Dell Computer Corp. (1989), Howard Schultz of Starbucks Corp. (1991), Steve Case of America Online (1994), Jeff Bezos of Amazon.com (1997), John P. Mackey of Whole Foods Market, Inc. (2003) and Wayne Huizenga of Blockbuster Entertainment (2004).

14. Ernst & Young recognizes its honorees at a series of ENTREPRENEUR OF THE YEAR regional awards banquets, at the national ENTREPENEUR OF THE YEAR gala, and at the WORLD ENTREPRENEUR OF THE YEAR award ceremony.

15. Ernst & Young maintains an ENTREPENEUR OF THE YEAR Hall of Fame at the company's United States Headquarters at 5 Time Square in New York, which is open to the

public, and operates an ENTREPRENEUR OF THE YEAR Hall of Fame website at <http://eoyhof.ey.com> with a searchable database of past ENTREPRENEUR OF THE YEAR award winners. See <http://eoyhof.ey.com/SearchHallofFame.aspx>.

16. The ENTREPRENEUR OF THE YEAR mark has also been publicized in numerous Ernst & Young authorized books and other publications, including: *The Ernst & Young Entrepreneur of the Year Award Insights from the Winners' Circle* published in 2002 by Kaplan Business; *Women Entrepreneurs Only: 12 Women Entrepreneurs Tell the Stories of Their Success* published in 1999 by Wiley; *Net Entrepreneurs Only: 10 Entrepreneurs Tell the Stories of Their Success* published in 2000 by Wiley, and *What's Luck Got to Do With It?: Twelve Entrepreneurs Reveal the Secrets Behind Their Success* published in 1996 by Wiley.

17. Ernst & Young's ENTREPRENEUR OF THE YEAR program also garners a tremendous amount of third-party press coverage. A recent search of Westlaw's ALLNEWS database returned more than 1,500 news articles in United States publications referencing Ernst & Young's ENTREPRENEUR OF THE YEAR awards in the last three years alone.

18. As a result of Ernst & Young's extensive use of the ENTREPRENEUR OF THE YEAR mark, the mark has acquired tremendous value and has become extremely well known to the consuming public and trade as identifying and distinguishing Plaintiffs exclusively and uniquely as the source of services available under the mark. The mark has thus come to represent an enormous goodwill of Counterclaim Plaintiffs.

19. In addition to its common law rights in the ENTREPRENEUR OF THE YEAR trademark, EYGN owns United States Trademark Registration No. 1,587,164 issued by the United States Patent and Trademark Office (the "USPTO") for ENTREPRENEUR OF THE YEAR in connection with "Conducting an annual awards ceremony commemorating the

recipient's exceptional achievement in entrepreneurial business achievements" in International Class 41 (the "ENTREPRENEUR OF THE YEAR Registration"). A true and correct printout from the USPTO's database reflecting the ENTREPRENEUR OF THE YEAR Registration is attached hereto as **Exhibit 1**.

20. The ENTREPRENEUR OF THE YEAR Registration is valid, subsisting, and in full force and effect. The Registration also is incontestable under Section 15 of the Lanham Act, 15 U.S.C. § 1065, and therefore constitutes conclusive evidence of EYGN's ownership of the mark and of its exclusive right to use the mark in commerce on or in connection with the identified services pursuant to Section 33(b) of the Lanham Act, 15 U.S.C. § 1115(b).

B. EM's Infringing Conduct

21. EM has no connection to Plaintiffs.

22. Upon information and belief, EM publishes *Entrepreneur Magazine*, a monthly magazine for and about entrepreneurs.

23. In 1994, when Ernst & Young learned that EM was sponsoring a contest under the ENTREPRENEUR OF THE YEAR trademark, Ernst & Young's counsel sent a cease-and-desist letter to the editor of *Entrepreneur Magazine* demanding that EM immediately stop using the ENTREPRENEUR OF THE YEAR mark. In response, corporate counsel for the EM thanked Ernst & Young's counsel for "bringing the matter to [EM's] attention" and advised that EM had chosen to discontinue the program. A true and correct copy of this correspondence is attached as **Exhibit 2**.

24. Notwithstanding its actual notice of Plaintiffs' exclusive rights in and registration of the ENTREPRENEUR OF THE YEAR mark, and of Ernst & Young's prior objection to

EM's use of the mark, EM recently launched a new contest under the ENTREPRENEUR OF THE YEAR mark. Upon information and belief, nominations for the new EMI contest were accepted through June 30, 2008. A true and correct copy of a press release concerning Defendant's new contest is attached as Exhibit 3.

25. EM's new contest under the ENTREPRENEUR OF THE YEAR mark, like the well-known contest Ernst & Young has long operated under the ENTREPRENEUR OF THE YEAR mark, seeks nominations from the general business community and honors successful business leaders.

26. EM's ENTREPRENEUR OF THE YEAR mark is identical in all respects to Ernst & Young's famous ENTREPRENEUR OF THE YEAR trademark.

27. Upon information and belief, EM has engaged in and is continuing to engage in the above conduct willfully and deliberately, with full knowledge of Plaintiffs' prior rights in the ENTREPRENEUR OF THE YEAR mark and the incontestable registration for that mark, and with an intent to misappropriate Plaintiffs' goodwill in the ENTREPRENEUR OF THE YEAR mark and deceive consumers into believing that EM and/or its services are legitimately connected with Plaintiffs.

28. When Plaintiffs learned of EM's infringing use of the ENTREPRENEUR OF THE YEAR mark, they demanded in writing that EM stop such use. EM refused to stop such use and instead filed a declaratory judgment action against Plaintiffs in the United States District Court for the Central District of California with the caption *Entrepreneur Media, Inc. v. EYGN Limited*, No. SACV08-0608 DOC (C.D. Cal.) (the "Anticipatory California Action"). Plaintiffs intend to file a motion to transfer the Anticipatory California Action to this Court.

29. EM's use of the ENTREPRENEUR OF THE YEAR mark unfairly and unlawfully wrests from Plaintiffs control over the federally registered ENTREPRENEUR OF THE YEAR mark and Plaintiffs' reputation. Plaintiffs have no control over the quality of EM's services, and Plaintiffs' extremely valuable reputation and the hard-earned goodwill built up in Plaintiffs' mark may be permanently damaged if EM—an entrant in the economically challenged magazine industry—offers services under the ENTREPRENEUR OF THE YEAR mark that are inferior to Plaintiffs' services.

30. Unless EM's conduct is enjoined, it will greatly injure the value of the ENTREPRENEUR OF THE YEAR mark to Plaintiffs and the ability of that mark to identify services emanating from Plaintiffs.

31. Plaintiffs have no adequate remedy at law.

**FIRST CLAIM FOR RELIEF (BY EYGN) FOR
TRADEMARK INFRINGEMENT UNDER 15 U.S.C. § 1114(1)**

32. Plaintiffs repeat and reallege paragraphs 1 through 31 above as if fully set forth herein.

33. EYGN is the owner of the ENTREPRENEUR OF THE YEAR mark and Registration, which is valid, subsisting, and in full force and effect.

34. EM's activities as described herein are likely to cause confusion, or to cause mistake or to deceive consumers and the public as to the source or sponsorship of EM's goods and services. Consumers are likely to be misled into believing that EM's contest was licensed by, sponsored by or otherwise approved by EYGN.

35. EM was on both actual and constructive notice of EYGN's exclusive rights in the ENTREPRENEUR OF THE YEAR mark at the time EM decided to use the mark. EM's use of

the ENTREPRENEUR OF THE YEAR mark is willful, in bad faith, and with full knowledge of EYGN's prior use of, exclusive rights in and ownership of that mark, with full knowledge of the goodwill and reputation associated with that mark, and with full knowledge that EM has no right, license or authority to use that mark or any other mark confusingly similar thereto.

36. EM's acts are intended to reap the benefit of the goodwill that EYGN has created in the ENTREPRENEUR OF THE YEAR mark and constitute infringement of EYGN's federally registered trademark in violation of Section 32(1) of the Lanham Act, 15 U.S.C. § 1114(1).

37. EM's conduct has caused and is causing immediate and irreparable injury to EYGN and will continue both to damage EYGN and to deceive the public unless enjoined by this Court. EYGN has no adequate remedy at law.

**SECOND CLAIM FOR RELIEF (BY EYGN and ERNST & YOUNG)
FOR FEDERAL UNFAIR COMPETITION UNDER 15 U.S.C. § 1125(a)**

38. Plaintiffs repeat and reallege paragraphs 1 through 37 above as if fully set forth herein.

39. EM's activities as described herein are likely to cause confusion, mistake, or deception as to the source of EM's goods and services and are likely to create the false impression that EM is affiliated with Plaintiffs or that its goods and services are authorized, sponsored, endorsed, licensed, or authorized by Plaintiffs. EM's actions constitute unfair competition, false designation of origin and use of a false description in violation of Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).

40. EM's conduct has caused and is causing immediate and irreparable injury to Plaintiffs and will continue both to damage Plaintiffs and to deceive the public unless enjoined by this Court. Plaintiffs have no adequate remedy at law.

**THIRD CLAIM FOR RELIEF (BY EYGN and ERNST & YOUNG)
FOR UNFAIR COMPETITION UNDER NEW YORK COMMON LAW**

41. Plaintiffs repeat and reallege the allegations set forth in paragraphs 1 through 40 above as if fully set forth herein.

42. Defendant's conduct complained of herein is likely to confuse the public as to the origin, source or sponsorship of Defendant's goods and services, or to cause mistake or to deceive the public into believing that Defendant is affiliated with or that its goods and services authorized, sponsored, endorsed, licensed, or authorized by Plaintiffs, in violation of Plaintiffs' rights in the ENTREPRENEUR OF THE YEAR mark under New York State common law.

43. Defendant chose to use the ENTREPRENEUR OF THE YEAR mark with constructive and/or actual knowledge of Plaintiffs' prior use of and rights in the ENTREPRENEUR OF THE YEAR mark.

44. By adopting and using a colorable imitation of the valuable and distinctive ENTREPRENEUR OF THE YEAR mark, Defendant has been unjustly enriched and Plaintiffs have been damaged.

**FOURTH CLAIM FOR RELIEF (BY EYGN and ERNST & YOUNG)
FOR VIOLATION OF THE NEW YORK DECEPTIVE AND UNFAIR TRADE
PRACTICES ACT UNDER NEW YORK GENERAL BUSINESS LAW § 349**

45. Plaintiffs repeat and reallege the allegations set forth in paragraphs 1 through 44 above as if fully set forth herein.

46. Defendant's use of the ENTREPRENEUR OF THE YEAR mark has the capacity to deceive and is deceiving the public as to the source or sponsorship of Defendant's goods and services. As a result, the public will be damaged.

47. Defendant's conduct is willful and in knowing disregard of Plaintiffs' rights.

48. Defendant has been and is engaged in deceptive acts or practices in the conduct of a business, trade or commerce in violation of Section 349 of the New York General Business Law.

49. Defendant's conduct has caused and is causing immediate and irreparable injury to Plaintiffs.

**FIFTH CLAIM FOR RELIEF (BY EYGN and ERNST & YOUNG) FOR
CANCELLATION OF EM'S U.S. TRADEMARK REGISTRATIONS
UNDER 15 U.S.C. §§ 1052, 1065(4), 1092**

50. Plaintiffs repeat and reallege paragraphs 1 through 49 above as if fully set forth herein.

51. In response to Plaintiffs' recent demand that EM stop using the ENTREPRENEUR OF THE YEAR mark, EM asserted that confusion was not likely because of the strength of EM's purported "family" of ENTREPRENEUR-formative marks for which EM owns trademark registrations issued by the USPTO.

52. The following registrations (collectively, "EM's Registrations") in EM's purported family of marks are for terms that, when used on or in connection with EM's goods or services, are generic and/or merely descriptive without a showing of secondary meaning:

- (a) Registration No. 2,391,145 of ENTREPRENEUR EXPO in connection with
"Arranging and Conducting Trade Show Exhibitions in the Field of

Entrepreneurial Activities, Namely the Start-Up and Operation of Small Business Enterprises”;

(b) Registration No. 3,315,154 of ENTREPRENEURIAL WOMAN in connection with “Publications, Namely, Magazines, Magazine Inserts, Booklets, Books, and Published Reports, Featuring Information of Interest to Women in the field of Business”;

(c) Registration No. 3,470,064 of ENTREPRENEUR PRESS for “Paper goods and printed matter, namely, books, manuals, prepared reports, work books, study guides, legal and business forms, and newsletters concerning advice and information relating to the subjects of starting, running and operating a business, and individuals who succeeded in business, which subjects are of interest to entrepreneurs, new and existing businesses and members of the general public” and “On-line ordering services featuring printed and electronically downloadable publications, namely, books, study guides, legal and business forms, and newsletters, concerning advice and information relating to the subjects of starting, running and operating a business and individuals who succeeded in business, which subjects are of interest to entrepreneurs, new and existing businesses and members of the general public”;

(d) Registration No. 2,653,302 of SOYENTREPRENEUR.COM for “Advertising and business services, namely, advertising for others via a global computer information network; providing computerized on-line ordering featuring printed publications, books, magazines, reports and printed manuals containing advice for starting and operating small businesses; providing business information in the

Spanish language in the field of starting and operating small businesses via the Internet”;

- (e) Registration No. 3,374,476 of WOMENENTREPRENEUR.COM for
“Dissemination of advertising for others via the Internet; providing business information about small business operations via the internet; providing an online searchable database featuring business reports, advice and information regarding starting and operating small businesses” and “Providing online electronic bulletin boards for transmission of messages among computers users concerning small business operations”;
- (f) Registration No. 3,266,532 of ENTREPRENEURENESPANOL.COM for
“Advertising and business services, namely, arranging for the promotion of goods and services of others by means of a global computer network and other computer online service providers; providing business information for the use of customers in the field of starting and operating businesses and permitting customers to obtain the aforesaid information via a global computer network and other computer online service providers; Internet advertising services, namely, promoting the goods and services of others by providing a web site with active links to their websites featuring their goods and services”;
- (g) Registration No. 3,204,899 of ENTREPRENEUR’S STARTUPS for “Paper goods and printed matter; namely, magazines, books, booklets and published reports pertaining to business opportunities.”
- (h) Registration No. 2,502,032 of ENTREPRENEUR for “Arranging and Conducting Trade Show Exhibitions in the Field of Entrepreneurial Activities, Namely the

Start-Up and Operation of Small Business Enterprises” and “Educational Services, Namely, Conducting Seminars on the Development and Operation of Businesses, and Conducting Work Shops on Computer Technology, Telecommunications, Marketing, Financing Options, Real Estate Management, Tax Planning and Insurance”; and

- (i) Registration No. 2,263,883 of ENTREPRENEUR in connection with “Advertising and business services, namely, arranging for the promotion of the goods and services of others by means of a global computer network and other computer online services providers; providing business information for the use of customers in the field of starting and operating small businesses and permitting customers to obtain information via a global computer network and other computer online service providers and; web advertising services, namely, providing active links to the websites of others.”

53. Under Sections 2, 15(4) and 24 of the Lanham Act, 15 U.S.C. §§ 1052, 1065(4) and 1092, the terms registered in EM’s Registrations should not be registered as trademarks because they are generic terms when used on or in connection with EM’s products and services and/or do not serve to identify and distinguish EM’s goods or services from those of others and do not otherwise function as trademarks as defined in Section 45 of the Lanham Act, 15 U.S.C. § 1127.

54. Plaintiffs are being and will continue to be damaged by the aforementioned EM Registrations because, among other things, EM is relying on such registrations to justify its infringement of Plaintiffs’ ENTREPRENEUR OF THE YEAR mark.

55. Pursuant to Section 37 of the Lanham Act, 15 U.S.C. § 1119, this Court should direct the Director of the United States Patent and Trademark Office to cancel EM's Registrations.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully demand judgment as follows:

(1) That a permanent injunction be issued enjoining EM and its officers, agents, privies, principals, directors, licensees, attorneys, servants, employees, affiliates, subsidiaries, successors and assigns, and all those persons in concert or participation with any of them, and any entity owned or controlled in whole or in part by EM, from:

- (a) Using the ENTREPRENEUR OF THE YEAR mark, or any simulation, reproduction, copy, colorable imitation or confusingly similar variation thereof, in or as part of a trademark, service mark, corporate name or trade name, or otherwise in connection with awards and/or ceremonies honoring businesspersons or goods or services related thereto;
- (b) using any false designation of origin or false description (including, without limitation, any letters or symbols), or performing any act, which can, or is likely to, lead members of the trade or public to believe that EM is associated with Plaintiffs or that any product imported, manufactured, distributed, sold or offered or any service offered by EM is in any manner associated or connected with Plaintiffs, or is authorized, licensed, sponsored or otherwise approved by Plaintiffs;

- (c) purchasing Plaintiffs' ENTREPRENEUR OF THE YEAR mark in connection with any sponsored advertising on the Internet or using Plaintiffs' ENTREPRENEUR OF THE YEAR mark in any source code or otherwise using Plaintiffs' ENTREPRENEUR OF THE YEAR mark such that a search for ENTREPRENEUR OF THE YEAR on the Internet will cause any domain name or website of EM to appear in search results;
- (d) using or registering Plaintiffs' ENTREPRENEUR OF THE YEAR mark as part of any domain name or internet address, regardless of country-code top-level domain or general top-level domain;
- (e) engaging in any other activity constituting unfair competition with Plaintiffs, or constituting an infringement of Plaintiffs' ENTREPRENEUR OF THE YEAR mark;
- (f) applying to register or registering in the United States Patent and Trademark Office or in any state trademark registry any mark consisting of or including Plaintiffs' ENTREPRENEUR OF THE YEAR mark or any simulation, reproduction, copy or colorable imitation thereof; and
- (g) assisting, aiding or abetting any other person or business entity in engaging in or performing any of the activities referred to in subparagraphs (a) through (f) above.

(2) Issuing judgment from this Court ordering the Director of the United States Patent and Trademark Office to cancel EM's Registrations.

(3) Ordering the destruction of all materials (including, without limitation, all brochures and other promotional materials) in EM's custody, possession or control bearing the

ENTREPRENEUR OF THE YEAR mark or any simulation, reproduction, copy or colorable imitation thereof within (30) thirty days.

(4) Directing that EM file with the Court and serve upon Plaintiffs' counsel within thirty (30) days after entry of judgment a report in writing under oath, setting forth in detail the manner and form in which they have complied with the above.

(5) Awarding Plaintiffs EM's profits.

(6) Awarding Plaintiffs their actual damages, trebled, pursuant to 15 U.S.C. § 1117(a).

(7) Awarding to Plaintiffs exemplary and punitive damages to deter any further willful infringement as the Court finds appropriate.

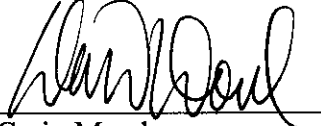
(8) Awarding to Plaintiffs their costs and disbursements incurred in this action, including reasonable attorneys' fees.

(9) Awarding to Plaintiffs interest, including pre-judgment interest on the foregoing sums.

(10) Awarding to Plaintiffs such other and further relief as the Court may deem just and proper.

Dated: New York, NY
July 28, 2008

FROSS ZELNICK LEHRMAN & ZISSU, P.C.

By: 
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Betsy Judelson Newman

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Counsel for Plaintiffs

EXHIBIT 1

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2008-07-28 18:29:19 ET

Serial Number: 73749392 Assignment Information Trademark Document Retrieval

Registration Number: 1587164

Mark (words only): ENTREPRENEUR OF THE YEAR

Standard Character claim: No

Current Status: This registration has been renewed.

Date of Status: 2000-02-11

Filing Date: 1988-08-31

Transformed into a National Application: No

Registration Date: 1990-03-13

Register: Principal

Law Office Assigned: (NOT AVAILABLE)

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 900 -File Repository (Franconia)

Date In Location: 2002-05-07

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. ERNST & YOUNG. U.S. LLP

Address:

ERNST & YOUNG. U.S. LLP
787 SEVENTH AVENUE
NEW YORK, NY 10019
United States

Legal Entity Type: LIMITED LIABILITY PARTNERSHIP

State or Country Where Organized: New York

GOODS AND/OR SERVICES

International Class: 041

Class Status: Active

CONDUCTING AN ANNUAL AWARDS CEREMONY COMMEMORATING THE
RECIPIENT'S EXCEPTIONAL ACHIEVEMENT IN ENTREPRENEURIAL BUSINESS
ACHIEVEMENTS

Basis: 1(a)

First Use Date: 1986-02-00

First Use in Commerce Date: 1987-02-00

ADDITIONAL INFORMATION

Disclaimer: "ENTREPRENEUR"

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2000-02-11 - First renewal 10 year

2000-02-11 - Section 9 granted/check record for Section 8

1999-10-27 - Combined Section 8 (10-year)/Section 9 filed

1996-06-21 - Section 8 (6-year) accepted & Section 15 acknowledged

1995-12-21 - Section 8 (6-year) and Section 15 Filed

1990-03-13 - Registered - Principal Register

1989-08-29 - Published for opposition

1989-07-29 - Notice of publication

1989-07-29 - Notice of publication

1989-07-28 - Notice of publication

1989-03-14 - Published for opposition

1989-02-10 - Notice of publication

1988-12-09 - Approved for Pub - Principal Register (Initial exam)

1988-11-21 - Communication received from applicant

1988-11-07 - Non-final action mailed

1988-10-14 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

SUSON UPTON DOUGLASS

Correspondent

SUSAN UPTON DOUGLASS

FROSS, ZELNICK, LEHRMAN & ZISSU, P.C.

866 UNITED NATIONS PLAZA

NEW YORK, NY 10017



United States Patent and Trademark Office

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Assignments on the Web > Trademark Query

Trademark Assignment Abstract of Title

Total Assignments: 3

Serial #: 73749392

Filing Dt: 08/31/1988

Reg #: 1587164

Reg. Dt: 03/13/1990

Registrant: ARTHUR YOUNG & COMPANY

Mark: ENTREPRENEUR OF THE YEAR

Assignment: 1

Reel/Frame: 0777/0404

Received:

Recorded: 03/25/1991

Pages: 2

Conveyance: MERGER

Assignor: ERNST & WHINNEY AND ARTHUR YOUNG & COMPANY

Exec Dt: 02/27/1990

Entity Type: SEE DOCUMENT FOR DETAILS

Citizenship: NONE

Entity Type: SEE DOCUMENT FOR DETAILS.

Citizenship: NEW YORK

Assignee: ERNST & YOUNG U.S.

277 PARK AVENUE

NEW YORK, NEW YORK 10172

Correspondent: ERNST & YOUNG

380 MADISON AVENUE

NEW YORK, NY 10017

Assignment: 2

Reel/Frame: 1304/0287

Received:

Recorded: 02/17/1995

Pages: 5

Conveyance: CHANGE OF NAME EFFECTIVE 8-1-94 SEE RECORD FOR DETAILS.

Assignor: ERNST & YOUNG U.S.

Exec Dt: 08/01/1994

Entity Type: GENERAL PARTNERSHIP

Citizenship: NEW YORK

Entity Type: LIMITED LIABILITY PARTNERSHIP

Citizenship: DELAWARE

Assignee: ERNST & YOUNG U.S. LLP

787 SEVENTH AVENUE

NEW YORK, NEW YORK 10019

Correspondent: SUSAN UPTON DOUGLASS - WEISS DAWID

FROSS ZELNICK & LEHRMAN, P.C.

633 THIRD AVENUE

NEW YORK, NY 10017

Assignment: 3

Reel/Frame: 2479/0868

Received: 04/12/2002

Recorded: 03/25/2002

Pages: 23

Conveyance: ASSIGNS THE ENTIRE INTEREST

Assignor: ERNST & YOUNG U.S. LLP

Exec Dt: 12/27/2001

Entity Type: DELAWARE LIMITED LIABILITY PARTNERSHIP

Citizenship: NONE

Entity Type: CORPORATION

Citizenship: BAHAMAS

Assignee: EYGN LIMITED

ONE MONTAGUE PLACE EAST BAY STREET

NASSAU, BAHAMAS

Correspondent: FROSS ZELNICK LEHRMAN & ZISSU, P.C.

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EXHIBIT 2



Suite 2800
2001 Ross Avenue
Dallas, Texas 75201

Phone: 214 979 1700

January 12, 1994

Ms. Rieva Lesonsky
Editor in Chief
Entrepreneur
P. O. Box 57050
Irving, CA 92619-7050

Dear Ms. Lesonsky:

It has come to our attention that *Entrepreneur* magazine is sponsoring an award program using the name Entrepreneur of the Year. Entrepreneur Of The Year® is a registered service mark of Ernst & Young. We have used this service mark for our firm's program for many years. Because we are an international firm, this contest is held in all regions of the United States and in many other countries.

Since Entrepreneur Of The Year is a registered service mark of Ernst & Young, it is inappropriate for you to use it without our consent.

Thank you for your cooperation in this matter. If you have any questions, please feel free to contact me or our counsel, Howard Freedman. We can be reached at (214) 979-1673 or (212) 773-3855, respectively.

Yours very truly,

A handwritten signature in dark ink, appearing to read 'Dan R. Garner', written in a cursive style.

Dan R. Garner

Copy to Howard Freedman

*File 101 Legal -
Service Mark*

Entrepreneur Group

January 21, 1994

Ronald L. Young
Corporate Counsel

Dan R. Garner
ERNST & YOUNG
2001 Ross Avenue, Suite 2800
Dallas, Texas 75201

Dear Mr. Garner:

Our Editor-in-Chief, Rieva Lesonsky, has asked me to respond to your letter of January 12, 1994, in which you advise us that the name "Entrepreneur of the Year" is a registered service mark of Ernst & Young. We thank you for bringing this matter to our attention. However, we have already (and for unrelated reasons) decided not to pursue an awards program using that name.

I trust that the foregoing satisfactorily responds to your concerns. However, should you have any further questions, please do not hesitate to contact me at the telephone number below.

Very truly yours,

ENTREPRENEUR MEDIA, INC.




Ronald L. Young

RLY:cs
cc : Rieva Lesonsky

*cc Howard Freedman
my legal OK*

EXHIBIT 3

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Press Releases Current Press Releases 2008 2007 2006 2005 2004 2003 2002 2001 Sign Up for E-mail Updates Subscribe to RSS Feeds	<h2>2008 Press Releases</h2> <p>Back to List</p> <h3>Entrepreneur magazine and The UPS Store to hunt business pioneers</h3> <p>IRVINE, Calif., March 10, 2008 -- <i>Entrepreneur</i> magazine and <i>The UPS Store</i> today launched the "Entrepreneur of the Year" contest. Nationwide, the business community is being called upon to find those who best exemplify the entrepreneurial spirit.</p> <p>"Without entrepreneurs, there would be no business community; these are the people who represent 99.7 percent of all employers," said Rieva Lesonsky, director of <i>Entrepreneur</i> magazine. "Their passion fuels America's economy. This contest is truly a unique opportunity for entrepreneurs to celebrate their own."</p> <p>Eligible business owners are invited to submit an online entry at the contest's Web site, www.entrepreneur.com/eoy. Nominations will be accepted through June 30, 2008. Businesses with no more than 100 employees and gross sales revenue of at least \$3 million in 2007 will qualify for the "Entrepreneur of the Year" award. "Emerging Entrepreneur of the Year" is open to companies that have been in business for less than five years with less than five employees and which posted at least \$500,000 in gross sales revenue for 2007.</p> <p>An expert panel of judges will choose the finalists, including representatives from <i>Entrepreneur's</i> editorial department and Mail Boxes Etc., Inc. (MBE), the franchisor of <i>The UPS Store</i>, along with <i>Entrepreneur</i> columnist Robert Kiyosaki ("Rich Dad, Poor Dad"). The panel's decision will be based on several criteria, including business growth in terms of number of employees and annual gross sales revenue as well as impact on an industry, the community, employees and customers.</p> <p>Once finalists are chosen, the public will select its winners by an online vote at www.entrepreneur.com/eoy. Voting will take place from July 21 to Aug. 20.</p> <p>"The UPS Store franchisees are entrepreneurs and small-business owners, so it's our privilege to acknowledge peers who have created and sustained their own successful business endeavors," said Stuart Mathis, president of MBE. "Many of our customers are everyday entrepreneurs and small-business owners; we make it our goal to help see their businesses grow and succeed."</p> <p>The two winning business leaders will be profiled in the December 2008 issue of <i>Entrepreneur</i> magazine and honored at an awards luncheon and ceremony in December 2008 in Long Beach, Calif. Additionally, the winners will receive two roundtrip tickets to anywhere in the United States, a gift certificate for free services at <i>The UPS Store</i>, a three-year subscription to <i>Entrepreneur</i> magazine, and a selection of <i>Entrepreneur Press</i> books.</p> <p>For complete rules and regulations for <i>Entrepreneur</i> magazine's 2008 Entrepreneur of The Year Contest <i>Presented by The UPS Store</i>, visit www.entrepreneur.com/eoy.</p> <h4>About Entrepreneur Media Inc.</h4> <p>Entrepreneur Media Inc. is the premier content provider for and about entrepreneurs. Our products engage and inspire every day with the advice, solutions and resources that fuel the bold and independent way entrepreneurs think.</p> <p>After 30 years, nobody reaches more growing businesses. As the original magazine for the small and midsize business community, <i>Entrepreneur</i> continues to be the definitive guide to all the diverse challenges of business ownership. <i>Entrepreneur.com</i> is the most widely used website by entrepreneurs and emerging businesses worldwide. <i>Entrepreneur Press</i> publishes the books that turn entrepreneurial skills into business success.</p> <p>To learn more, visit www.entrepreneur.com.</p> <h4>About The UPS Store</h4> <p>The UPS Store and Mail Boxes Etc. retail locations are franchised by Mail Boxes Etc., Inc., a UPS subsidiary. Together The UPS Store and Mail Boxes Etc. locations comprise the world's largest franchise network of retail shipping, postal and business service centers, with more than 5,900 locations around the world. In the United States, The UPS Store and Mail Boxes Etc. locations are independently owned and operated by licensed franchisees of Mail Boxes Etc., Inc. Outside the United States, locations are owned and operated by MBE master licensees or their franchisees. For additional information, please visit www.theupsstore.com or www.mbe.com.</p>			

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